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PARTICIPATING IN USDA DECISIONMAKING

United States Department of Agriculture

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AT USDA INDIVIDUAL INTERESTS MATTER

You can have an influence on government decisions. The idea that a member of the public has no opportunity to influence the Federal rulemaking process is a common misconception. This pamphlet will give you the basic information you will need to make your views known.

Federal agencies such as United States Department of Agriculture are required to seek comments from the public on most proposed rules and must consider these comments before the regulation can go into effect. An agency benefits greatly from the advice of interested people, and after receiving input an agency may revise a proposed rule or change it completely. This opportunity to advise USDA is a valuable right that, when exercised, ensures that individual interests are taken into consideration when government agencies act. In order to make your contributions to USDA most effective, you need a general knowledge of the decisionmaking process.

Many of the laws passed by Congress are written in general terms. They do not take care of all the details necessary to implement the law. The agencies that will be responsible for implementing the law have to make specific rules for this purpose.

RULEMAKING PROCESS

There are two types of rulemaking procedures established by law, "informal" and "formal". The Department of Agriculture usually uses informal rulemaking and for this reason this handbook deals primarily with participation in the informal rulemaking process. The public can influence both types of proceedings, but the methods of rulemaking and participating in the process differ a great deal. The differences are as follows:

- Formal rulemaking is a procedure somewhat similar to a court proceeding. There is an administrative law judge, a record of all testimony and evidence is kept, detailed rules govern the introduction of evidence and testimony, parties involved are frequently represented by lawyers and witnesses are subject to cross examination. Only the material actually introduced in the proceeding may be considered in the final decision.

At USDA formal rulemaking proceedings are used primarily by the Agricultural Marketing Service. They are usually initiated upon a specific request from the public.

- Informal rulemaking is not subject to the stringent procedures of formal rulemaking. Comments are accepted from the public either in writing, or orally during hearings or meetings. Comments that are received during the comment period (usually 60 days) are considered. The final decision is based on analysis by the agency, the public comments received, and any other appropriate information and is not limited to a hearing record.

Informal Rulemaking Process

1. Initiation of rule - A decision is made by a policy official to consider issuing a new rule. The process may be initiated when a rule needs to be changed or a new rule developed. This may be required as a result of new legislation or problems that have been recognized with respect to existing activities. Frequently such problems may be identified by the public and the process may begin as a result of public comments or complaints.

2. Draft Impact Analysis - USDA staff begins to identify and analyze the issues, and formulate possible solutions. The staff estimates what would actually happen if any of the alternatives were selected. This is written down in a document called a Draft Impact Analysis and is revised and refined as thinking on the action evolves.
3. Prenotice - If there is time and the issue is complex, an announcement that states that a certain rule is under consideration may be published in the Federal Register. The prenotice generally summarizes the problem and possible solutions. The public is asked for information that might be helpful, and is usually given 60 days to provide it.
4. Hearings - In addition to a prenotice, informal hearings may be held if there is time and the issue is complex. Hearings and other meetings where the public may gain information and express opinions in person are announced in the Federal Register and through press releases.
5. Proposal - After public views have been considered, the Draft Impact Analysis is revised. The "proposed rule" is then written if the Department still feels a new rule is warranted.
6. Comment Period - Before final regulations are issued, the proposed rule is published in the Federal Register and comments are solicited for 60 days or more except in emergencies.

If you do not feel that the comment period specified in the Federal Register provides enough time for you to study the proposal and prepare your comments, you can ask USDA officials to extend the comment period. If your request is granted, the notice of the extension will be published in the Federal Register and a press release will be issued.

You may comment on either the proposed rule or on the Draft Impact Analysis which is prepared in the development of the rule, and is available for review from the Department.

7. Hearings - Hearings may be held again at this point for public discussion of the proposal.
8. Analysis of Comments - When the 60-day comment period for the proposal ends, all the comments that have been received are carefully reviewed. They are addressed in the Final Impact Statement.
9. Publication of Final Rule - The final version of the rule and a summary of the final analysis are published in the Federal Register along with the date when the rule will go into effect.

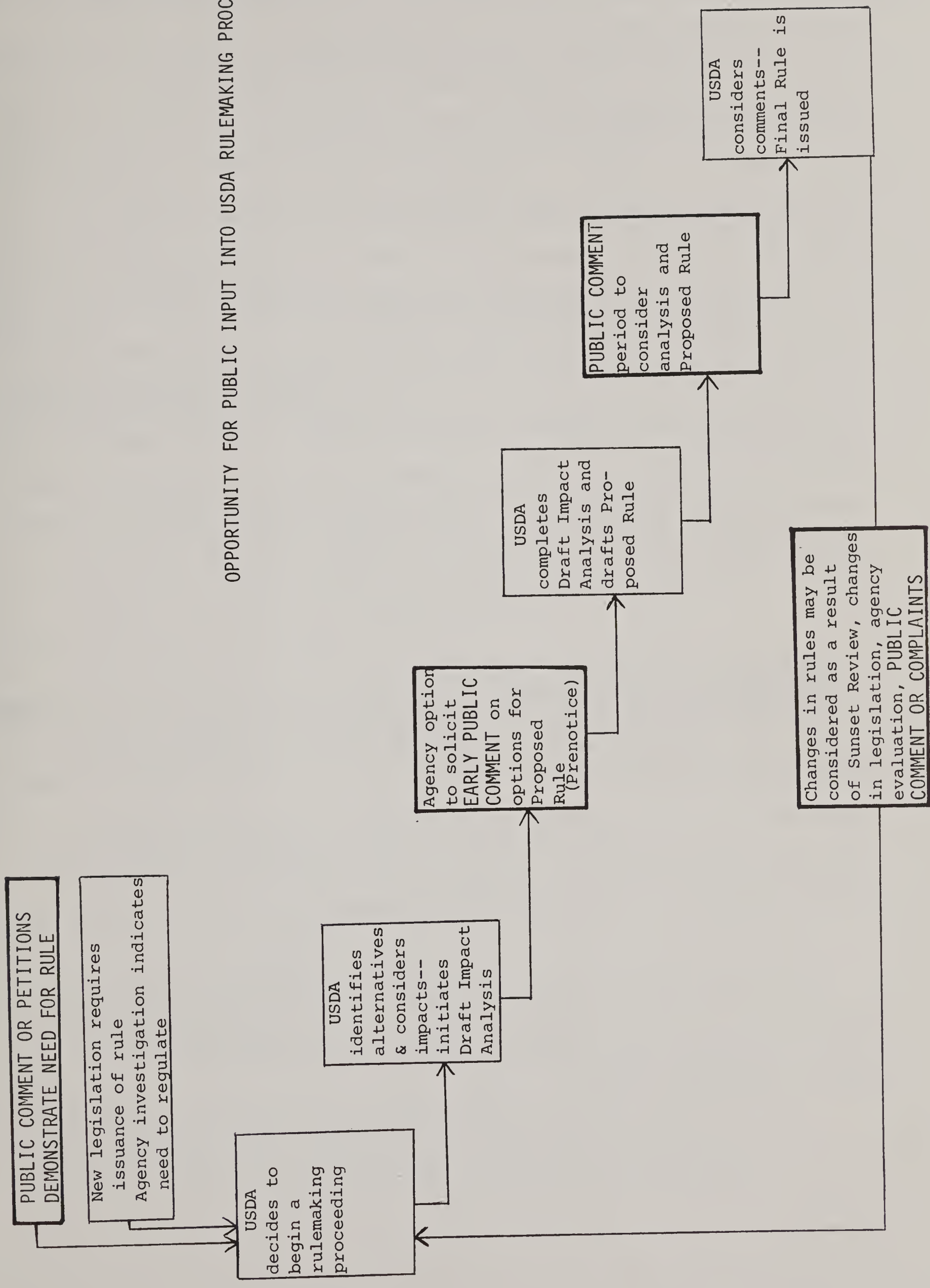
INITIATING AN ACTION

If you feel that USDA needs to initiate, change, repeal, or reconsider a policy or regulation, you should direct your petition, along with a statement of the facts it is based on, to the agency involved.

LOCATING AND KEEPING UP WITH CURRENT USDA PROPOSALS

Twice each year the Department of Agriculture publishes a calendar in the Federal Register that summarizes significant regulations and other actions being developed throughout USDA. This calendar will help you identify actions of interest to you early enough so that you can plan to participate. Each item listed includes the name, address, and telephone number of an official to contact if you need more information. The Federal Register is available in

OPPORTUNITY FOR PUBLIC INPUT INTO USDA RULEMAKING PROCESS



PUBLIC COMMENT OR PETITIONS DEMONSTRATE NEED FOR RULE

New legislation requires issuance of rule Agency investigation indicates need to regulate

USDA decides to begin a rulemaking proceeding

USDA identifies alternatives & considers impacts-- initiates Draft Impact Analysis

Agency option to solicit EARLY PUBLIC COMMENT on Proposed Rule (Prenotice)

USDA completes Draft Impact and Analysis and drafts Proposed Rule

PUBLIC COMMENT period to consider analysis and Proposed Rule

USDA considers comments-- Final Rule is issued

Changes in rules may be considered as a result of Sunset Review, changes in legislation, agency evaluation, PUBLIC COMMENT OR COMPLAINTS

Federal depository libraries throughout the country. In addition, USDA would be happy to provide you with a copy of any Federal Register notices. You may direct any inquiries to the agency involved in your area of interest or to the Office of Public Participation. You may also keep informed by: (1) requesting news releases, fact sheets or "backgrounders" from the Office of Information at the agency involved within USDA; (2) keeping up with newspaper, radio, television and magazine information; (3) reading the Federal Register regularly; and (4) requesting copies of Draft Impact Analyses on specific actions of concern to you from the agency contact listed in the notice of the action. Under the Freedom of Information Act you have the right to receive any documents in the possession of the Federal Government (subject to certain exemptions). If you have any problems obtaining the information you seek you may file a formal Freedom of Information Act request. For assistance contact the Office of Public Participation.

FINANCIAL ASSISTANCE

In some rulemaking proceedings, USDA may make money available to assist people in participating who might otherwise not have the funds to do so. These funds may be provided at the discretion of USDA to those who would make a substantial contribution to the process by offering important information or insights which would not be heard from another source.

If you would like more information about the reimbursement program, write to the Director of Public Participation, USDA, Room 117-A, Washington, D.C. 20250 or phone (202) 447-2113.

HOW TO FILE COMMENTS

1. Arrange for your comments to reach USDA on or before the close of the comment date included in the prenotice or proposal. Comments are helpful both when you disagree and when you agree with the proposal.
2. Send written comments to the person listed in the Federal Register or press release. Instead of the specific contact, you may also submit comments to the Secretary of Agriculture, USDA, Washington, D.C. 20250.
3. If you wish to see any comment that has already been submitted you may do so. These comments are open for public viewing in the agency responsible for the action.
4. Although not required, use of the following checklist may help you organize your comments and will facilitate review of your comment by the appropriate individual.
 - (a) Identify the rulemaking you are commenting on by the title, date and Federal Register page number.
 - (b) Make any general comments you wish.
 - (c) Identify and comment on specific provisions, paragraphs, or sections of the proposal.
 - If you would like to have a provision changed, suggest possible revised language.
 - To the greatest extent possible, support your changes or suggestions with hard evidence, for example: specifics of your experience, survey data, economic studies, cost analyses, expert opinions.
 - Explain your position, what your interest is (how you will be affected), and if you are a member of a group.
 - Identify unclear language.
 - Experiences you have had or judgments or insights you may have that would shed light on an action are important.
 - (d) Identify and comment on specific parts of the Draft Impact Analysis (done for proposals but not for Prenotices). You may wish to identify specifically:
 - other alternatives,
 - validity or reliability problems with the data used,
 - new analytical techniques,
 - costs or benefits or other positive or negative impacts on specific groups, sectors of the economy or country,
 - different interpretations of the intent of the law, citing the basis of such interpretations,
 - case law which USDA may not have considered and explanations of how it bears on the decisions,
 - other governmental directives or regulations which may be in conflict with the decision,
 - attitudes, opinions and other comments relevant to the decision.

Comments received from the public are not viewed as votes to be counted. Although the number of comments received expressing a particular point of view is of interest, getting factual information from individuals and diverse interest groups is more useful. This makes it possible to identify and consider the effects on the public of implementing any of the various alternatives.

WHERE TO GO FOR HELP

This list gives contacts for the general public who want information on programs, materials, and activities of the various agencies of the U.S. Department of Agriculture. For information contact:

National Office

USDA Office of Public Participation
Elizabeth Webber
Acting Director, Public Participation
U.S. Department of Agriculture
Washington, D.C. 20250
(202) 447-2113

USDA Special Assistant to the Secretary
For Consumer Affairs
Neill Schaller
U.S. Department of Agriculture
Washington, D.C. 20250
(202) 447-3961

Regional Information Offices: Northeast

Regional Information Office
Office of Governmental and
Public Affairs
U.S. Department of Agriculture
26 Federal Plaza, Room 1653
New York, New York 10007
(212) 264-1145

Southeast

Regional Information Office
Office of Governmental and
Public Affairs
U.S. Department of Agriculture
1718 Peachtree Street, NW
Room 206
Atlanta, Georgia 30309
(404) 257-4154

Midwest

Regional Information Office
Office of Governmental and
Public Affairs
U.S. Department of Agriculture
536 S. Clark Street
Room 936
Chicago, Illinois 60605
(312) 353-3631

Southwest

Regional Information Office
Office of Governmental and
Public Affairs
U.S. Department of Agriculture
1100 Commerce Street, Room 5040
Dallas, Texas 75242
(214) 767-0094

Western

Regional Information Office
Office of Governmental and
Public Affairs
U.S. Department of Agriculture
630 Sansome Street
Room 702
San Francisco, California 94111
(415) 556-6464

Agencies and Offices of USDA and Their Missions

OFFICE OF GOVERNMENTAL AND PUBLIC AFFAIRS (OGPA)

Responsible for maintaining the flow of USDA information to the mass media and to the public, and provides liason with Congress.

AGRICULTURAL MARKETING SERVICE (AMS)

Responsible for market news and food marketing alert programs; administers marketing regulatory programs, marketing agreements and orders, direct marketing programs, Federal-State marketing improvement programs, and other programs to insure orderly marketing of farm products.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)

Responsible for regulatory programs to control or eradicate animal and plant pests and diseases; enforces domestic and port-of-entry agricultural quarantines; licenses and assures the safety and effectiveness of veterinary biological products; and administers the Animal Welfare and Horse Protection Acts.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (ASCS)

Responsible for commodity production adjustment and support programs to agricultural producers, conservation assistance through cost-sharing to farmers and ranchers, natural disaster assistance to agricultural producers, certain national emergency preparedness activities.

ECONOMICS, STATISTICS AND COOPERATIVES SERVICE (ESCS)

Conducts research and issues official USDA reports on crop, livestock, and poultry production; food prices; supplies and consumption; marketing costs and developments, and other consumer related topics; agricultural economics and financing; and development of cooperatives.

FOREIGN AGRICULTURAL SERVICE (FAS)

Provides information about world crops, policies, and markets to American agricultural producers; administers agricultural import regulations, assists in the export of U.S. farm products, and represents U.S. agriculture in foreign trade matters.

FEDERAL CROP INSURANCE CORPORATION (FCIC)

Strengthens the financial position of farmers and the community by providing crop insurance against loss from unavoidable causes, such as weather, insects and disease.

FEDERAL GRAIN INSPECTION SERVICE (FGIS)

Regulates the grading and weighing of grain for foreign and U.S. markets.

FARMERS HOME ADMINISTRATION (FmHA)

Makes or guarantees loans to rural residents for: individual homes, rental units, self-help housing, home repair, and site development; water and waste disposal and other community facilities; farm

purchase and enlargement, operating expenses, and improvements including non-farm enterprises to supplement farm income; farm disaster emergency needs; farm soil and water conservation; job-producing rural business and industry. Makes grants for special needs, such as rural water and waste disposal systems, rural industrial site development, farm labor housing, home repair for the elderly, technical assistance for self-help housing, and planning of rural development by public bodies.

FOOD AND NUTRITION SERVICE (FNS)

Administers the food assistance programs of the Federal Government. These include the Food Stamp, Food Distribution, Special Supplemental Food for Women, Infants, and Children, School Lunch, School Breakfast, Special Milk, Child Care, Summer Food Service, and other family and child nutrition assistance programs.

FOREST SERVICE (FS)

Responsible for applying sound conservation and utilization practices to natural resources in the national forest system; carries out research on better processing methods for forest products, multiple use of forest lands, and conservation; conducts community involvement programs.

FOOD SAFETY AND QUALITY SERVICE (FSQS)

Administers Federal inspection programs to assure the safety, wholesomeness, and truthful labeling of meat, poultry and egg products; develops quality grade standards, and provides voluntary grading of meat, poultry, eggs, dairy products, fruits, and vegetables; purchases foods for the food assistance programs.

OFFICE OF ENVIRONMENTAL QUALITY (OEQ)

Initiates, coordinates, and monitors Department policies and programs related to the protection of environmental quality and natural resources. Reviews Departmental implementation of the national Environmental Policy Act, land use policies, and integrated pest management programs and activities; develops and maintains procedures on cultural resources, such as historic and prehistoric sites.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT (OICD)

Coordinates USDA's participation in international technical assistance, international training and development programs, and international organization affairs and scientific exchange agreements.

RURAL ELECTRIFICATION ADMINISTRATION (REA)

Makes loans to local cooperatives and other qualified organizations to provide electric power and telephone service to rural areas; works with borrowers to stimulate economic development in their areas.

SOIL CONSERVATION SERVICE (SCS)

Carries out a national soil and water conservation program in cooperation with landowners and operators; provides technical conservation assistance; publishes soil surveys of interest to farmers, builders, home buyers, and others who use the land. Administers USDA's Resource Conservation and Development areas and helps land users to develop income-producing recreation enterprises.

SCIENCE AND EDUCATION ADMINISTRATION (SEA)

Coordinates and improves the effectiveness of research, extension, and teaching in the food, nutrition, and agricultural sciences. Consolidates the activities of the former Agricultural Research Service, Extension Service, Cooperative State Research Service, and National Agricultural Library. Includes a new Human Nutrition Center, the competitive grants programs, and teaching activities transferred from the Department of Health, Education and Welfare.

*U.S. GOVERNMENT PRINTING OFFICE : 1980 O-310-945/OBPE-145



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WASHINGTON, D.C. 20250

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